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Eric Schneider

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EXAMINER

PERRY, LINDA C

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/604,598	Applicant(s) SCHNEIDER, ERIC	
	Examiner LINDA C. PERRY	Art Unit 3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/18/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to amendments filed 10/4/2008 to application no. 10604598 filed 08/01/2003, claiming benefit of provisional 60319448 filed 08/03/2002. Claims 1-28 were considered. Claims 1-4 had been cancelled, claim 17 was cancelled, claims 1-10, 18, 23, 25, and 26 were amended, and claims 27-28 were added.

Response to Arguments

Remarks

2. Request for constructive assistance

Examiner's answer to this request is the same as before: Examiner is unaware of allowable claims, particularly in view of new references sought as a response to Applicant's new amendments to claims.

3. Priority

Applicant has attempted to clarified priority on the one example Examiner supplied by altering claims. Examiner notes that beginning from [0009], **one of** an interest and balance are **representative** of an amount not legal tender. [0073]-[0078] are all phrased in terms of two different amount types, e.g. [0073]:**one of a first amount and second amount is one of an amount of product, amount of service, amount of reward, amount of points, amount of time, amount of space, amount of**

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distance, amount of light, amount of mass, amount of volume, amount of storage, amount of bandwidth, and amount of energy; same “one of” language or “types” of amounts in [0074]-[0079]. Examiner in no way guarantees that priority has been properly satisfied for all limitations, as is the usual case when a priority benefit of a provisional is claimed and entered into the file. Applicant is advised of this in order that he understand the limits to protection supplied when a priority claim is accepted and appears in the file. In prior amendment, Applicant claims without support that claims are fully supported by the provisional application.

Examiner further notes that provisional shows “generating a accrued amount” (¶ [0050],-[0052]) as equivalent to generating the second amount, and that is different from calculating an interest or adding an interest to a principal as **part of** generate the second amount (compare and contrast figures 2 and 3 in provisional application, where figure 3 has an interest “generated” not “calculated”, and the flowchart specifically makes a distinction between the two, and that generated interest is **stored only** before request to **access** account is processed which is followed by “End”), and also different from the description of “generating an interest” in ¶ [0054] which can include a type conversion and where “generating the second amount is **clearly followed by selecting a second amount type interest type, and interest rate** from which accrued interest is **generated**”. Although this last may not have been Applicant’s intent, unfortunately, the wording of the paragraph and his method of adding words outside of a box in his “flowchart” make everything about ¶ [0054] and the associated figure ambiguous. Thus there are many ways of interpreting “generating second amount” according to the

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provisional application no. 60319448. At no place in the provisional is the word “calculating” placed with “a second amount” in the provisional application, only this multiply interpretable “generating” is only found with “a second” or “the second”.

4. Rejections of claims 6-26 under 35 U.S.C. §112

Applicant still has numerous U.S.C. §112 issues as detailed below,

5. Rejections under 35 U.S.C. §35 U.S.C. §§102 and 103

Applicants’ arguments are moot given new grounds of rejection required by amendments.

6. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under “Attorney and Agent Roster.” Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

In this case, Examiner explains this further recommendation as follows: by broadening the claim unwisely, and against Examiner's careful recommendations, Applicant has allowed application of references to a matter he may not wish to claim but is claiming. In the case of claim 6, a **plurality** of elements are (sic) received and a **non-monetary second amount is calculated from first non-monetary first amount and a time difference including adding an interest to a principal**. There are many ways to reject these claims.

Specification

7. Examiner notes that the claims have been amended to have second time later than the first time, but the specification has not. Nor has Applicant done what prior final Office Action suggested, namely complete review of specification. It is still not comprehensible.

Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution.

For example, paragraph [0068] appears to say at one time, call it Ta, an **amount** [let's call it Aa] **corresponding to** [let's call it] Tb is **received, determine an amount from** Ta, Tb, and Aa. [0069] seems to say at Ta, an Aa corresponding to Tb is received and Ab can be generated from Ta Tb and Aa, where in [0069] all the variables are time. In [0068] Ta is the time the account holder makes a request, it is not the time of a

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periodic statement generation, for example; whereas claim 5 and all the figures 1 indicate a billing period. This breadth directly affects the interpretation of the claims, allowing Examiner to use a broader set of references to reject.

Furthermore, specification as currently amended says interest or account interest can be **defined** to be **inclusive** of the following; an amount that is not legal tender paid for the use of an amount that is not legal tender. Thus Applicant has attempted to combine the word "defined" with the broad term "inclusive" thus leaving open the use of any dictionary's usual definition of interest. And, Applicant **includes** a definition that has no time aspect to it at all, which is far from the usual use of the word in billing, (apart from the other use of the word in finance, namely partial or total ownership of an asset,, as a number such as annual percentage rate, such that the use of the 'difference between" first and second times in claim 6 and claim 25 is now of uncertain meaning indeed. And, Examiner can imagine using all manner of variables as the amounts. Examiner has taken trouble on multiple occasions to warn Applicant to claim narrowly and specifically, but Applicant has chosen to broaden his claims to allow a use of a very large number of references to reject his claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 6 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The matter is at least “determining a second time”, and “means for determining a second time”.

Regarding the replacement of “generating” with “calculating”, Examiner notes a second time that it is not supported at all by the provisional. In the instant application, ¶ [0064] makes clear that such “calculation” may be restricted to consulting tables. ¶ [0077] says only that second amount may be calculated/generated “by adding an accrued interest to the first amount” and ¶ [0062] says “for instance, whenever an account request is made, anon-monetary account interest...can be calculated, generated...by consulting...tables....if need be”. Thus any calculation of second amount using only the far less restrictive phrase “adding an interest”, and followed by referring to “said interest” and referring to calculating “said interest” as in claims 18-19, is also considered new matter.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of all new matter is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 5-28 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps in claims 5, 6, and 26 are: providing an interest type and interest rate. It is only in [0070] that the concept of interest is introduced into this process, and then applicant specifies that the interest **rate** and interest **type** must be supplied in order to generate the interest (an accrued interest can then be **generated** in step 245 **from** the first non-monetary amount, the difference between the first time and the second time, **the interest rate, and the interest type**). Furthermore, claims 5-25 are vague and indefinite because of the use of “interest”. An interest charge is commonly expressed as a rate, i.e. for example an annual percentage rate. Thus Applicant leaves open the question of what he means by his use of “an interest” and “calculating (said) interest” for yet another reason, that he appears, from conversations with Examiner, to mean calculating another number than a rate, but his entire application is unclear on this point.

Claims 6-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As explained above under ‘specification’, use of the time difference calculated and of the interest calculated may be interpreted in many ways. Furthermore, source of the interest is unspecified, thus, it may not have been calculated at all, and calculation and the amounts may be interpreted so many ways, so use of the time difference is again in question.

The scope and meaning of the all independent claims 5, 6, 25, and 26 are unclear.

Claim 7 cites receiving the plurality of data elements from one of several potential sources, but claim 15 cites "said receiving of ...second time from input", contradicting claim 1 'determining a second time". Where the 'second time' comes from is unclear, so not only these claims but also all dependent claims using "said second time" are unclear claims.

Claims 8, 9, 10, 11 now takes a path which may not have been chosen ("first data record") in claim 7. The scope and meaning of the claims are unclear.

Claim 11 is totally unclear. There is no antecedent for any of the list following "one of", nor any ties of anything on the list to what has gone before. Thus use of "said account" in claims 12, 13, is unclear. The scope and meaning of that claim and claims 12, 13 are unclear.

Claim 14 again chooses a path ("account provider") which may not have been the path chosen in claim 13. The scope and meaning of the claim are unclear.

Claim 15 also takes path (inputting) questionably.

Claim 7 cites receiving the plurality of data elements from one of several potential sources, but claim 15 cites "said receiving of ...second time from input", contradicting claim 1 'determining a second time". Where the 'second time' comes from is unclear, so not only these claims but also all claims using said second time are unclear claims

There is no antecedent for “said one of first amount, first time, and second time” in claim 15 and the antecedent for both the first and second use of the same wording in claim 16 is also questionable. The scope and meaning of claims 15 and 16 are unclear.

Given the numerous ways of interpreting “interest”, the scope and meaning of claim 18 are unclear. However claim 18 makes clear that the alternate interpretation of an interest not calculated may be used in claim 6, which reaffirms the question of where interest came from in that claim. Claim 19 is unclear since an interest type or interest rate alone, according to ¶ [0070] of the specification is not enough to calculate the interest amount, and from common knowledge, interest type or interest rate alone are insufficient to calculate an interest amount. Owing to the many ways Applicant has left open to interpret “interest”, Applicant must further explain how terms normally used in the usual fashion as in claim 20 to refer to monetary interest are to be interpreted for his unusual uses of interest; similar remarks apply to use of “interest period” in claim 21. (Note also that services (¶ [0073]) may be provided and billed in “programs” i.e. by a result obtained and not a time at all). The scope and meaning of claims 18, 19, 20, and 21 are unclear. Examiner further notes that provisional shows “generating a accrued amount” (¶ [0050], [0052]) as equivalent to calculating the second amount, and that is different from either calculating an interest or adding an interest to a principal as **part of** generate the second amount (compare and contrast figures 2 and 3 in provisional application, where figure 3 has an interest “generated” not “calculated”, and the flowchart specifically makes a distinction between the two, and **stored only** before request to **access** account is processed which is followed by “End”).

Claim 22 cites “amount type” without explanation. These words are open to multiple interpretations. Applicant is again reminded that Examiner is forbidden to import limitations from the specification. The scope and meaning of the claim are unclear.

All use of “calculating” in the claims must be reviewed and corrected as necessary.

In the instant non-provisional application, Examiner notes that all the **provider-generated** statements are shown in Figs 1x bearing the interest earned; that Figure 3c shows one process, generating a second non-monetary amount by adding a generated accrued interest, not “calculating” and not the “account interest” or merely “interest” used in the claims at all; that figure 4 also shows a different non-monetary interest generated, where there is a specific distinction made between “generate” and “calculate”, and the “non-monetary interest” is only stored and “end” follows account access request is processed; and that figure 5a, 6a are even vaguer; and 6b and the description thereof suffer from the same issues identified for the similar content as identified above, in the provisional.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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10. Claims 5-24 and 27-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 5 recites in the preamble “a computer program product comprising. The body of claim recites ‘computer readable computer code adapted to...’ Claim 1 is considered non-statutory because it is considered to be software, per se. Functional Descriptive material per se is not statutory. Functional Descriptive material in combination with an appropriate computer readable medium must be capable of producing a useful, concrete, and tangible result when used in a computer system. Since there are no instructions in executable form, no underlying functionality occurs and thus there is no practical application. For these reasons, claim 1 fails to belong to one of the statutory categories set forth in 35 U.S.C. 101 and is therefore considered to be non-statutory. Examiner also notes ¶ [0072] which describes the computer program product purely in software terms.

Regarding claims 6-24 and 27-28, they disclose methods, which are a patentable category of invention. However, based on Supreme Court precedent and recent Federal Circuit decisions, the Office’s guidance to examiners is that a § 101 process must (1) be tied to a particular machine or apparatus, or (2) transform a particular article to a different state or thing. This is called the “machine-or-transformation test”. If neither of these requirements is met by the body of the claim, the method is not a patent eligible process under § 101 and should be rejected as being directed to non-statutory subject

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matter. There are two corollaries to the machine-or-transformation test. A mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patentable. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass this test. Also, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process. This means reciting a specific machine or a particular transformation of a specific article in an insignificant step, such as data gathering or outputting, is not sufficient to pass the test. For these reasons, claim 6 fails to belong to one of the statutory categories set forth in 35 U.S.C. 101 and is therefore considered to be non-statutory. Claims 7-24 and 27-28 depend from claim 6 and stand rejected under the same reasoning.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Once again, the Applicant has made it possible to reject because of the breadth of the application, covering meanings beyond what, according to conversations, he meant to claim.

Examiner notes that ¶ [0011], for example, only show **one** of the amounts being non-legal tender, and thus still allows a use of interest being monetary, that ¶ [0017] is

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described as showing “**earned accrual information**”, and that the use of “interest” in ¶ [0038] says only “interest or more specifically account interest **can be** defined...to be **inclusive**” of “an amount that is not legal tender paid for the use of an amount that is not legal tender”. Furthermore, ¶ [0043] then] speaks of “the non-monetary accrual method in accordance with the present invention”. The equivalence of interest and accrual, or of non-monetary and not legal tender is not clear throughout. Furthermore, the term “use” was only “**applicable to**” an amount “**not legal tender**” either saved or spent, deposited or withdrawn **etc.**

Since interest only “can be defined” as “inclusive” is all the specification says, it is wide open to other interpretations of “interest”.

For example, an intangible asset (e.g. mineral rights, intellectual property) is considered a non-monetary asset which can be used like any other asset to secure a loan, can be bought, or sold, can be traded, and so forth, but it is a non-monetary asset. Another intangible is “goodwill”, which is a non-monetary asset evaluated on sale of a business, which may be the customer list, or the press the company has received, or the skills of the employees. See for example Hunter et al. at page 8: “The disciplines of accounting, economics, and management science all embrace similar definitions of intangible investment comprising “identifiable non-monetary assets without physical substance” “.

For yet another example, non-monetary interest in the form of securities or options is old and well-known as are non legal tender instruments: see US 20070027787 to Tripp, at ¶ [0380] AIO strip: The derivative **security**, or strip,

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representing the payment of the accrued-interest-only, which is stripped, or derived, from the payment stream of the underlying asset; or non cash as investments, Dooley US 20020035611 at ¶ [0059]. Also, in Tripp, at [0453], *idem*, “preferred tender: Currencies or monetary equivalents that may not be formally recognized by any government as legal tender, but which are nonetheless generally accepted in the marketplace for the payment of goods and services. Examples may include personal checks, credit cards, money orders, debit cards and so on.

Also, non-monetary prizes given for winning a game, such as giving another game of mini-golf on winning the first game of mini-golf, are old and well-known, and electronic fulfillment and bonus prizes are illustrated with gaming prizes such as merchandise or services or tickets or entitlement tokens or airline, other travel, hotel, spa or restaurant services 6609978 to Paulsen at columns 2 and 5, and an upgrade for a prize which may be charged to a credit card.

It is also common to speak of an “interest” in a property meaning partial ownership. That this can be non-monetary may be seen in Nabhan, US 20020188408 at ¶ [0040], or Immel US 20020010636 at ¶ [0029], or James 20040002908 at ¶ [0029].

For yet another example, non-cash interest is a standard accounting term used in reporting, for example (see both in Cablevision’s 2001 first quarter results—equity interests page 1 and “non-cash interest related to shareholder loans and amortization of intangible assets” at page 3 and statement showing it as an expense at page 5, and a standard item is a non-cash total as in non-cash charges Tilton 20040098329 at ¶ [0079] when explaining EBITDA components such as non-cash charges).

11. Regarding claim 5, Examiner notes that the nature of what is on the statement in no way affects the storing or forwarding or sending or distributing of the statement. Thus, any medium comprising code which can store and distribute a statement will satisfy the claim.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Cablevision1.

The account statement with non-cash interest expense accrued is a balance of interest accrued consisting of non-cash expenses. Depreciation and amortization total expense is shown on page 6, that those include several items, such as depreciation of property and equipment and amortization of intangible assets is shown on page 27, and that intangibles may have accumulated amortization applied is shown on page 41, that depreciation and amortization and other items are non-cash items is said on page 34 "Operating Activities". Finally, the document is received via computer systems using program code stored on a computer-readable medium is shown as source of the document was Edgar, the Securities and Exchange online database.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claim 5 is alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Nabham, (US 20020188408).

Regarding claim 5, Nabham teaches biometric data, described in a list at (**claim 17**) is supplied for analysis in return for compensation (see at least ¶ [0010]) and non-monetary compensation may be supplied in the form of **additional data, an equity interest**, or another value based on the contribution of the suppliers of data to the data analysis results which are provide to customer(s), and is based on their contribution, or may be stock and/or other non-cash compensation (see at least ¶ [0039]-[0040], [0054]). In addition, the clearinghouse may retain a percentage of that compensation (see at least [0042]). Nabhan also teaches (**claim 16**) compensation as a function of the **use** of the data.

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Regarding claim 6, Examiner notes that Applicant has unduly broadened the claims, against her advice, and now has a second non-monetary amount being calculated which the claim does not relate at all to interest; the claim only says “calculating said second amount **includes** adding an interest to said principal”, thus leaving open to interpretation as part of a complex multi-step calculation.

The original Adam Smith definition of interest was as an amount of annual produce, which comes either from the ground or from the hands of productive laborers.(see Smith, Book II “ A capital lent at interest may, in this manner, be considered as assignment from the lender to the borrower of certain considerable portion of the annual produce; upon condition that the borrower in return shall, during the continuance of the loan, annually assign to the lender a smaller portion, called the interest; and at the end of it, a portion equally considerable with that which had been originally been assigned to him, called the repayment). William Burroughs designed a calculating machine with a register and a recording device in the 1880s, and in 1904 Hopkins a machine which could multiply specifically for billing which could calculate discounts and hence interest (Kidwell). Kilby worked on an electronic calculator from 1965 and filed for a patent on the handheld electronic calculator using an integrated circuit in 1967. In 1971 the programmable calculator by Marchant appeared.

13. Claim 6, 7, 8, 18, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savage et al. (US 20020026394 hereinafter Savage), and further in

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view of Biffar (6047269), and further in view of **(either a) Trivedi (7054866) or b)** Iannacci, (US 20020062249), and further in view of Excel spreadsheet.

Regarding claim 6, Savage teaches

*In a device having access to one of a memory and storage with a program stored therein, said program adapted to generate an amount, a method comprising (see at least **Abstract**) :*

*receiving ~~at a first time~~, a plurality of data elements having a first data element including a first amount ~~corresponding to a~~ and a second data element including a first time; wherein said first data element corresponds to said second data element and said first amount is a principal (see at least **Abstract**); determining a second time wherein said second time is later in time than said ~~second~~ first time (see at least billing ¶ [0007]-[0010], cycle time ¶ [0015]); and,*

Savage teaches multiple vendor accounts on one statement, from utilities and credit card providers, insurance, telephony (see at least ¶ [0003]).

Savage does not specifically teach non-monetary amount accounts. Savage does not teach the second amount, but does teach clearly an account could consist of multiple airline accounts or multiple telephony accounts, and could also consist of multiple credit card accounts accruing different interest at different monthly interests.

Biffar teaches *said ~~one of a first amount~~ is a non-monetary amount and said second amount is a non-monetary amount, (see at least **column 5**, the payment system can be used to manage loyalty programs such as frequent flier miles programs, and to*

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add other information and data to a voucher such as coupons, and **columns 16-17**, a receipt describing what was purchased or attach loyalty bonus points, voucher with bonus or loyalty points may be attached and returned to the central system...the data collected could be transferred on a regular basis or on-demand...the system reads and stores the information the bonus points could be tracked in a separate bonus account, with monthly statements...merchant receipts could be formatted in a format as it is used in commercially available personal software packages. Obviously, the bonus points could be tracked with the monetary amounts on one multi-itemed statement.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by Savage the non-monetary account as taught by Biffar to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Neither Savage nor Biffar teaches non-monetary amount as interest.

a) Trivedi teaches a billing unit configured with rating rules and plans, and rating rules which may provide mechanisms to create rating plans and provide bonus points, airline miles and other incentives as part of the rule-based rating and billing service(see at least **column 6**). Thus, Trivedi allows for creation of a plan which includes a rating plan which includes interest in points per period. Thus this implies including rules and a plan which allows interest earned on bonuses, miles or other incentives.

b) Alternatively, Iannacci teaches (see at least ¶ [[0150]-[0153], [0176]) a user may be shown linked valuations and have the option of settling a transaction by using any payment method and related items of value- e.g. credit cards, discounts, coupons, awards. Thus a user can calculate an amount of cash and an interest due, and look at the **rate** of deduction of points if the points are used to pay off the cash interest (negative rate on the points) and similarly, the payments may be used to do a commutation, in which an amount of cash is used to purchase items at a rate in time which comes with points at the rate per transaction as taught by Biffar, or the points accumulated may be used to pay off interest owed or receive interest in a deposit account, on the combined statement taught by Savage. Then an interest amount in a monetary account may be converted to produce an interest rate equivalent in points, and used to calculate terminal values on account statement which includes the points, or per Biffar, in a separate bonus account.. For example, some credit cards come with introductory rates for N months, an airline might change the miles per dollar for according to the availability the airline has, so credit cards and deposit accounts may be combined to arrive at an interest rate (due) or interest accrued (on a deposit account) which has a complex relationship to the points per transaction one may accumulate, depending when the transaction is made, thus a variable rate of accumulation of points can be calculated.. Also an Iannacci (¶ [0230]) teaches option incentives which may be available at certain times, and the Iannacci system is for aggregating and arranging and links benefits for the user where **accrued** awards may be converted to valuable

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consideration (§ [0025], [0034],[0068], [0090]). Thus, the ordinary interest rate may be converted to a non-monetary rate.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage and Biffar the non-monetary interest taught by {either a)Trivedi or b) Iannacci} to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Finally, the combinations so far described show how a vendor may provide a statement with non-monetary interest amount calculated; however, user may also calculate a what-if on awards or bonuses and monetary amounts when the time-varying circumstances described above occur, by downloading the account statement into Excel, a commercial package as taught by Biffar and doing various calculations to project his balances of monetary and non-monetary accounts, also using the interest derived as above. ~~generating-calculating a second amount from said first amount, said first time, and a difference between said second time and said first time, wherein said calculating said second amount includes adding an interest to said principal,~~ is taught.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage, Biffar, and {either Trivedi or Iannacci}, the method as taught Excel to realize the claimed invention since the claimed invention is merely a combination of old elements,

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and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding claim 7, Savage teaches Claim 7 (currently amended): *The method, as set forth in claim 6, wherein said receiving said plurality of data elements includes receiving said plurality of data elements from one of a first data record, computer readable medium, machine readable code, network resource redirection, and input (see at least ¶ [0015]).*

Claim 18 (currently amended): The method, as set forth in claim 6, further including calculating said interest is rejected using the same combination of references as claim 6 is, as was already shown a calculated interest.

Regarding claim 21, Savage teaches it at ¶ [0015]-[0016].

Regarding claim 24, Savage teaches it at ¶ [0021]

Claims 25, 26, and 28 are rejected using the same art and rationales used to reject claim 6.

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14. Claim 6 is alternatively rejected over Gupta, and further in view of Banglapedia, and further in view of Jorgenson.

Gupta teaches that non-monetary interest on non-monetary amounts existed in Ancient India (**see at least page 180**, interest in kind on loan in kind (see at least **pages 193**), and it still exists (Banglapedia, **page 4**). Jorgenson teaches the programmable calculator is as old as 1971. Thus the references may be combined to arrive at the calculation of non-monetary interest as the claim requires, and addition to a non-monetary principal, and adding them together, the method in a device having access to storage with a program stored thereon, to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Examiner notes that this is principally Applicants' claim to invention, at least as far as conversations with Applicant has taught the Examiner, the idea of non-monetary interest on a non-monetary amount. These references do show that the idea is documented as very, very old and well-known.

15. Claims 8, 15-16, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savage et al. (US 20020026394 hereinafter Savage), and further in

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view of Biffar (6047269), and further in view of Iannacci, (US 20020062249), and further in view of Excel spreadsheet.

Regarding claim 8, neither Savage nor Biffar teaches it.

Iannacci teaches *Claim 8 (currently amended): The method, as set forth in claim 7, further including updating said first data record by replacing said first amount with said second amount and said ~~second~~ first time with said second time* (¶ [0239], [0449], and result of transaction appears on account statement ¶ [0448], [0449], and FIG.11).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage and Biffar the basic account updating as taught by Iannacci to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding claim 15, neither Savage nor Biffar teaches it.

Iannacci teaches it at. ¶ [0126].

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage and Biffar the input as taught by Iannacci to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element

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merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding claim 16, neither Savage nor Biffar teaches it.

Iannacci teaches it at ¶ [0126].

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage and Biffar the input as taught by Iannacci to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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Regarding claim 19, neither Savage nor Biffar teaches it.

Iannacci teaches it at ¶ [0261].

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage and Biffar the interest as taught by Iannacci to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one

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of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding claim 20, neither Savage nor Biffar teaches it.

Iannacci teaches it at ¶ [0261].

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage and Biffar the interest as taught by Iannacci to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

16. Claims 9-10 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savage et al. (US 20020026394 hereinafter Savage), and further in view of Biffar (6047269), and further in view of **(either a) Trivedi (7054866) or b) Iannacci**, (US 20020062249)), and further in view of Excel spreadsheet, and further in view of Official Notice.

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Regarding claims 9-10, neither Savage nor Biffar nor (Trivedi or Iannacci) teaches it.

Official Notice is taken that it is possible merely by writing appropriate code as is well-known.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage, Biffar and (either Trivedi or Iannacci) and Excel the data manipulations as taught by Official Notice to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 27 may be rejected using the same art and rationales used to reject claim 6 where Official Notice is taken calculation may follow immediately when time is determined by any number of computer methods, such as program subroutines, event triggers, etc.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage, Biffar and (either Trivedi or Iannacci) and Excel the data manipulations as taught by Official Notice to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have

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performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

17. Claims 9-10 are alternatively rejected and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savage et al. (US 20020026394 hereinafter Savage), and further in view of Biffar (6047269), and further in view of Iannacci, (US 20020062249), and further in view of Excel spreadsheet, and further in view of Riley (U.S. Patent Application Publication No. 2002/0077940 hereinafter referred to as Riley).

Regarding claim 9, neither Savage nor Biffar nor Iannacci nor Excel teaches it.

Riley teaches *Claim 9 (currently amended): The method, as set forth in claim 7, further including appending said second amount and said second time to said first data record (¶ [0239], [0449], and result of transaction appears on account statement ¶ [0448], [0449], and FIG.11).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage, Biffar, Iannacci and Excel the data manipulations as taught by Riley to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding claim 10, neither Savage nor Biffar nor Iannacci nor Excel teaches it.

Riley teaches *Claim 10 (currently amended): The method, as set forth in claim 7, further including generating from said first data record, a second data record having said second amount and said second time (Fig. 1, items 25 and 28).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of Savage, Biffar, Iannacci and Excel the data manipulations as taught by Riley to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding claims 11 and 13, Savage teaches them at ¶ [0015].

Regarding claim 12, Savage teaches it at ¶ [0012].

Regarding claim 14, neither Savage teaches it at ¶ [0018].

18. Claim 12 is alternatively rejected and, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savage et al. (US 20020026394 hereinafter

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Savage), and further in view of Biffar (6047269), and further in view of **(either a) Trivedi (7054866) or b) Iannacci, (US 20020062249)**, and further in view of Excel spreadsheet and further in view of Maritzen (US 20020026423), or are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable Gupta, and further in view of Banglapedia, and further in view of Jorgenson, and further in view Maritzen (US 20020026423).

Regarding claims 12, 2, and 23, the named references do not teach them,

Maritzen teaches *Claim 12 (previously presented): The method, as set forth in claim 11, wherein said account is one of the group consisting of a membership account, reward account, prepaid account, checking account, savings account, investment account, retirement account, credit account, and debit account* (see at least ¶ [0059]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of references used to reject claim 6, the method as taught by Maritzen to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Maritzen teaches *Claim 22 (previously presented): The method, as set forth in*

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*claim 6, wherein said first amount is of a first amount type and said second amount is of a second amount type (see at least **claim 21, ¶ [0057]**).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of references used to reject claim 6, the method as taught by Maritzen to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

*Claim 23 (currently amended): The method, as set forth in claim 22, wherein said ~~generating~~ calculating said second amount includes consulting an amount type conversion table for converting said first amount type to said second amount type (see at least **Abstract, ¶ [0034]. [0042]**).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the account method as taught by the combination of references used to reject claim 6, the method as taught by Maritzen to realize the claimed invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Das et al. for the discussion of reinforcement learning as a discounted sum of rewards, further explained in Mahadevan's gain-optimal policies; the learning task is specified by rewards and penalties which are summed and discounted, and which are non-monetary amounts to which an interest is applied..

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDA PERRY whose telephone number is (571)270-1466. The examiner can normally be reached on 8-5 alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on 571 272 6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LINDA PERRY/
Examiner, Art Unit 3695
01 Mar. 2009.

/Charles R. Kyle/
Supervisory Patent Examiner, Art Unit 3695